

ESTTA Tracking number: **ESTTA771845**

Filing date: **09/20/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	The Cycle Exchange LLC		
Entity	Limited Liability Company	Citizenship	New Jersey
Address	65 Main Street Andover, NJ 07821 UNITED STATES		

Attorney information	Christopher J Day Law Office of Christopher Day 9977 N 90th Street, Suite 155 Scottsdale, AZ 85258 UNITED STATES chris@daylawfirm.com Phone:6022584440
----------------------	---

### Applicant Information

Application No	86745788	Publication date	08/23/2016
Opposition Filing Date	09/20/2016	Opposition Period Ends	09/22/2016
Applicant	CYCLE EXCHANGE LLC 14540 North Florida Avenue Tampa, FL 33613 UNITED STATES		

### Goods/Services Affected by Opposition


Class 035. First Use: 2010/11/25 First Use In Commerce: 2010/11/25 All goods and services in the class are opposed, namely: Motorcycle dealerships; Retail store services and on-line store services featuring motorcycles, motorcycle parts, motorcycle accessories, motorcycle trailers, scooters, automobiles, and motorcycle riding gear, apparel, and accessories
Class 037. First Use: 2010/11/25 First Use In Commerce: 2010/11/25 All goods and services in the class are opposed, namely: Repair and maintenance of motorcycles and scooters

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86958076	Application Date	03/30/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE CYCLE EXCHANGE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1997/08/01 First Use In Commerce: 1997/08/01 Retail Brick and Mortar Motorcycle dealerships

Attachments	86958076#TMSN.png( bytes ) 86745788 TTAB Notice of Opposition 982016.pdf(35586 bytes )
-------------	---

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher J Day/
Name	Christopher J Day
Date	09/20/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In re:*

Mark: CYCLE EXCHANGE  
Serial No.: 86745788  
Published: August 23, 2016

The Cycle Exchange LLC,  v.  CYCLE EXCHANGE LLC,  Applicant.	Opposer,
--	----------

**NOTICE OF OPPOSITION**

Opposer, The Cycle Exchange LLC, through its attorney Christopher J. Day, files this Notice of Opposition against registration of the above identified mark and alleges as follows:

*Identity and Standing of Opposer*

1. Opposer is The Cycle Exchange LLC, a limited liability company organized under the laws of New Jersey, with an address of 65 Main Street, Andover, NJ 07821.
2. Since at least as early as August 1, 1997, Opposer and its predecessors have used the mark THE CYCLE EXCHANGE and related marks in commerce in connection with the promotion and sale of Opposer's goods and services, including retail brick and mortar motorcycle dealerships in Int. Class 035.

3. In addition to motorcycle dealerships, Opposer services and repairs motorcycles under its THE CYCLE EXCHANGE mark, and has done so since at least as early as 1997.
4. On March 30, 2016, Opposer filed Application Serial Number 86958076 to register the mark THE CYCLE EXCHANGE for retail brick and mortar motorcycle dealerships in Int. Class 035.
5. On July 14, 2016 the USPTO Examining Attorney reviewing Opposer's pending registration application issued an office action, indicating a likelihood of confusion under Section 2(d) of the Lanham Act between the mark in Opposer's application and Applicant's mark.

*Applicant and Applicant's Mark*

5. Upon information and belief, Applicant is a Florida limited liability company by the name of Cycle Exchange LLC with an address of 14540 North Florida Avenue, Tampa, Florida 33613.
6. The mark in the subject application is CYCLE EXCHANGE in the following stylized format:



7. The goods/services identified in the subject application are “motorcycle dealerships; Retail store services and on-line store services featuring motorcycles, motorcycle parts, motorcycle accessories, motorcycle trailers, scooters, automobiles, and motorcycle riding gear, apparel, and accessories” in Int. Class 035 and “repair and maintenance of motorcycles and scooters” in Int. Class 037.

8. Applicant filed the subject application on a 1(a) basis on September 2, 2015.
9. The subject application claims a first use date of November 25, 2010.

*Grounds*

10. The words in Applicant's mark, namely CYCLE EXCHANGE are identical to the words CYCLE EXCHANGE in Opposer's mark.
11. Applicant's services, including motorcycle dealerships and the service and repair of motorcycles and scooters, are identical or highly similar to Opposer's services.
12. Upon information and belief, Applicant's services move in the same channels of trade, and are marketed to the same consumers, as are Opposer's services.
13. Applicant's mark, when used on or in connection with Applicant's services, will create a likelihood of confusion with Opposer's mark within the meaning of Section 2(d) of the Lanham Act.
14. Opposer's prior rights in its THE CYCLE EXCHANGE mark will be damaged by registration of Applicant's mark.

Wherefore, Opposer requests that the opposition be granted, and registration of the mark in application Serial Number 86745788 be refused.

Dated September 20, 2016.

/Christopher J. Day/  
Christopher J. Day, Attorney for Opposer  
Law Office of Christopher Day  
9977 North 90th Street, Suite 155  
Scottsdale, AZ 85258  
Telephone: (602) 258-4440  
Facsimile: (602) 258-4441

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their following address of record by First Class Mail on September 20, 2016:

Brittany J. Maxey  
Maxey Law Offices, PLLC  
100 Second Avenue South, Suite 401N  
St. Petersburg, FL 33701

/Christopher J. Day/

Christopher J. Day